



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Writ Petition No. 888/2024
Municipal Council, Achalpur Vs. Vinayak Dadarao Taywade (dead) Thr.LRsSmt.
Usha wd/o Vinayak Taywade

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Rohan Bhishikar, Advocate for petitioner.
Ms. Apurva Kolhe, Advocate for respondent.

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 08/10/2025.

1. The petitioner assailed the order passed by Registrar in PGA Appeal No.01/2022 by judgment and order dated 27.06.2023 passed by the Appellate Authority under the Payment of Gratuity Act, 1972 whereby the appeal filed by the petitioner was dismissed.

2. It is the contention of the petitioner that as the respondent is an employee of the Municipal Council and therefore, to get the payment of gratuity pensionary benefits, the provisions of Maharashtra Civil Services Rules are applicable and this issue was not considered by the Competent Authority and therefore, the present petition is filed.

3. The learned counsel for the respondent submitted that even if two set of rules are applicable, being social legislation the provision of Payment of Gratuity and Pensionary Rules, 1972 are applicable and she invited my attention to the paragraphs 10 and 11 of the law laid down by this Court in *Writ Petition no.1307/2021 and batch of the petitions (Chief Officer, Municipal Council, Chikhli Vs. Sheikh Javed Sheikh Wahad and others)* decided on 12.09.2022, which reads thus:

“10. In this light, when the rival submissions are appreciated, it appears that according to the learned counsel for the petitioner – Municipal Council, payment of gratuity and payment of pension under the MCSR (Pension) Rules, 1982, is a package deal and if the respondent – employees claim pension, they cannot claim gratuity under the Act of 1972 and they must necessarily be held entitled only to gratuity under the MCSR Pension Rules, 1982. The said contention is stated only to be rejected.

11. A perusal of the MCSR (Pension) Rules, 1982, would show that Rule 110 pertains to calculation of the amount of pension payable to an employee of the Municipal Council, as the said Rules are admittedly applicable and Rule 111 of the MCSR (Pension) Rules, 1982, pertains to the scheme of gratuity payable to the employees. These are two separate and distinct Rules, which pertain to distinct and separate benefits of pension and gratuity, as contemplated under the MCSR (Pension) Rules, 1982. The mixing of the same and claiming the same to be a package deal on behalf of the Council is nothing but a desperate attempt to wriggle out the Act of 1972 and the position of law laid down by the Hon’ble Supreme Court in the aforesaid judgments in that regard”.

4. The issue is already covered in detail in the aforesaid case and therefore the ratio laid down in the aforesaid judgment

is squarely applicable to the issue involved in the present writ petition.

5. The counsel for the petitioner has vehemently argued that in view of section 2 (e) of the Payment of Gratuity Act, 1972, MCSR Rules are applicable and therefore, action initiated by appropriate authority under the Act is unsustainable in law. It was specifically averred that once the provisions of Maharashtra Civil Services Rules are applicable, the authority must have considered the same. I am not in agreement with the submissions by the learned counsel for the petitioner and in view of the law laid down by this Court in Writ Petition No.1307/2021 (supra), I am adopting the same approach.

6. In view of the above, the writ petition stands dismissed. There shall be no order as to costs.

(Siddheshwar S. Thombre, J)